

Meeting of 1997-12-9 Regular meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
DECEMBER 9, 1997 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
Felix Cruz, City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. with Invocation by Chaplain Chul Kim, Fort Sill Post Chapel, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State law.

ROLL CALL

PRESENT: Jody Maples, Ward One
Richard Williams, Ward Two
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Randy Warren, Ward Eight

ABSENT: Carol Green, Ward Seven

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO RUTH CRAIG

Patsy Bard, Chairperson of Mayors Commission on the Status of Women, introduced Ruth Craig as Citizen of the Month. Mrs. Craig volunteers each Monday at City Hall. She participates in the Certified Cities effort, Retired Senior Volunteer Program, Mayors Commission on the Status of Women, Commission on Aging, Silver Haired Legislature, Extension Homemakers organization, Cameron Baptist Church, and AARP. She formerly worked at Cedar Crest Nursing Home and has three children, eight grandchildren, and four great grandchildren.

Mayor Marley presented Certificates of Honor from the City of Lawton, the Oklahoma House of Representatives from Rep. Kirby, the Oklahoma State Senate from Senator Helton, and a certificate of special recognition from Congressman J.C. Watts. Mrs. Craig said she was very appreciative of being recognized and that the Bible directs people to let their lights shine.

Mayor Marley presented the Second Place Award from the American Concrete Pavement Association to Jerry Ihler, Public Works/Engineering Director, and congratulated him on this honor and thanked him for his daily efforts.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF NOVEMBER 25, 1997.

MOVED by Williams, SECOND by Sadler, for approval of the Minutes. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Warren, Maples. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

BUSINESS ITEMS:

1. Hold a public hearing and consider an ordinance amending Section 18-404.1A.8b(2), Article 4, Chapter 18, Lawton City Code, 1995, amending the open space requirements for fences or walls. Exhibits: Ordinance No. 97-____; Draft LMAPC Minutes; Excerpt of 10/14/97 Council Minutes.

Bob Bigham, City Planner, said the proposed ordinance expands flexibility in the current ordinance which allows fencing on a portion of the right of way from 11-1/2 feet back of the curb when there are no utilities and the platted right of way is in excess of 50 feet. He said the current code provision pertains only to local residential streets; the proposed ordinance expands that flexibility to all streets, whether they be local, major, section line roads, etc.

Purcell said information shows that residential plat restrictions prohibit fences or walls in front yards typically and asked if

the ordinance would solve the problem for the location initially involved in this request, or will a plat restriction prevent the fencing. Bigham said there is some conflict between plat restrictions, which can be thought of as a private agreement between the developer and property owners in the subdivision, and the ordinances. Bigham said generally speaking, in the older parts of town such as Original Townsite, Airport, Beal, or North Addition, there are no plat restrictions; in the newer subdivisions, there are plat restrictions which generally prohibit fences or walls in the front yard. Purcell asked if the location which brought this up has such a plat restriction and Bigham said no.

PUBLIC HEARING OPENED. No one appeared to speak.
PUBLIC HEARING CLOSED.

Shanklin said in Old Town North and other areas, the sight line triangle is really out of proportion to the newer additions, even though they must adhere to it. He said this is really not infringing on anything of the City's other than allowing someone to be able to use the area.

MOVED by Shanklin, SECOND by Beller, to approve Ordinance No. 97-66, read the title only and waive reading of the ordinance.

Williams asked if this involved sight triangles. Shanklin said no, the right of ways in this area are 100 feet and 80 feet, and not the 50 feet provided in newer areas. Shanklin said the owner has a property set back in addition so they are 75 feet from the middle of the street, and hopefully that will be addressed so that people can legally have carports.

Maples asked if the ordinance would allow concrete fences in any location. Shanklin said he did not know and the ordinance says it may be extended in the set back area but it must be built in a manner so that it can be removed. Maples said a concrete wall was built across from Lawton High School and asked if it would be allowed to remain. Shanklin said it is a six foot tall concrete block fence on Fort Sill Boulevard across the street from Lawton High. Bigham said this ordinance addresses fences and walls and it does not limit the type of material that can be used; the ordinance does not give the property owner any interest in the right of way, and it holds the City harmless to be able to use the right of way.

Maples asked if a person can build a concrete fence anywhere they want to and Bigham said under the proposed ordinance, yes, and that terminology is not being changed in the ordinance.

Williams asked if this would fix the problem on Gore and Shanklin said yes. Maples said it was her understanding that if this is approved, concrete fences can be built similar to the one on Fort Sill Boulevard, anywhere in Lawton. Williams asked if Bigham was saying that people can do that anyway. Shanklin said no, that is a side yard, not a front yard. Bigham said the code does not get into the type of construction used in the fence, such as wood, masonry, or concrete, and only states it must be architecturally compatible with the residences. Bigham said the current code does not prohibit, and the proposed ordinances does not prohibit or limit the type of materials that can be used.

Shanklin said the concrete fence is on that person's property, and the fence on Gore is not on the person's property but on the right of way. Warren asked if this was a completely separate issue from easements and Bigham said yes, this is speaking of right of way. Warren asked if this would allow a person to construct a cinder block wall in the right of way, but not allow them to build a cinder block wall in the easement. Bigham said yes. Bigham said certain criteria must be met such as there must be a right of way in excess of 50 feet, no utilities, does not vest interest in the property, and if the City or utility companies need access, it must be removed.

Purcell asked if this were approved, could a person build a cement fence, similar to the one on Fort Sill Boulevard, all the way along Gore Boulevard in the right of way. Bigham said yes, if the areas meet the criteria of the ordinance, such as no utilities, not interfering with fire hydrants or sight triangles or sidewalks, and if those criteria are met, they can build. Williams asked if this is currently allowed. Bigham said it cannot go beyond the property line on a major arterial; if this were a local residential street, it would be currently allowed.

Title of the proposed ordinance was read.

VOTE ON MOTION: AYE: Sadler, Shanklin, Beller. NAY: Purcell, Warren, Maples, Williams. MOTION FAILED.

2. Consider supporting the development of an intergovernmental cooperative agreement between Comanche County and the City of Lawton for the creation of a city/county jail facility. Exhibits: None.

Schumpert said a task force was formed two years ago to look at creating a city/county jail facility; it was disbanded after a few months but with the recent passage of the truth in sentencing act and the situation where the county jail is overcrowded now, and the city's jail is overcrowded in the female section and is unable to handle juvenile offenders, the task force was reformed to discuss the possibility of creating a city/county jail. He said the task force met on several occasions and the location of 17th and G is mentioned; there are approximately 40 acres at that location and the Marie Detty Youth Center and the Juvenile Detention Center are currently on that site. Schumpert said discussions included relocating the county sheriff's office and the city police department to that location, but prior to any further work on this issue, a determination was needed as to whether it was Council's desire to have staff pursue it further. Schumpert said there is not an agreement attached because the idea is whether or not the Council supports development of an agreement.

Beller said Council had not seen anything as far as the concept, and that he would like to see where it would specifically be

located. He said he had a brief conversation this afternoon with Mr. Jones and he asked him if it was definite that it would be at 17th and G, and the response was that would be the most appropriate place but it was not really definite. Beller said there is a lot of ground at the Wackenhut facility and it is conceivable they could build a facility and lease it back to the city or county. He said he felt he was in a position similar to Mr. Walker in needing more information at this time and that he did not feel adequate information had been received for Council to be able to make a sensible decision.

Sadler said he was under the impression that Council was being asked to approve the concept of a city/county jail, not choosing a location or any specifics whatsoever, but generally saying the City is in favor of a city/county jail if it can be worked out. Beller said while Council would be approving the concept, they would also be approving a one-quarter percent sales tax and that is part of the proposal before the Council tonight. Williams said he did not see that. Sadler said he did not read that into it because he would support the concept but not the tax. Beller said the things he had read indicated a quarter percent sales tax. Beller said if it is predicated on a one quarter percent sales tax, at this time, it is really bad timing if the Council is seeking the support of the citizens of Lawton for the infrastructure funding that is desperately needed. He said he was 100% in favor of a city/county jail concept but the timing is not right.

Purcell said he had no problem with approving a concept, however, since Thursday when the agenda folders were delivered, quite a few shocking things had happened, one of which is that there will be on the ballot in February a quarter cent sales tax to do this. He said it seemed to be a case of the cart before the horse because the county was saying we need \$15 million and will raise it with a quarter cent sales tax before the council could consider the concept and direct staff to develop a plan of implementation. Purcell said the timing is horrible because Council has an item tonight, after previous direction, to have the final item to pass a one and a quarter cent sales tax after the CIP goes out to take care of the most pressing problem which is the sewer rehabilitation where there is no choice, it must be done. He said this seems to have jumped in the middle and tried to get ahead of that, and the Council is being asked to support the concept when there is already out there the \$15 million for whatever concept that may be developed. Purcell said he can no longer support this because he wanted to know what the concept would be and that it appeared there was not the cooperation originally thought. He suggested backing off of this for a while, seeing what happens, and then asking for a concept.

Purcell said he was told that one of the reasons the sales tax question came up and was passed was that the task force, in one of their meetings, voted unanimously to support this quarter percent sales tax. He said there were City representatives on the task force and he asked if they were at any meeting where a vote was taken to support the quarter cent sales tax and put it on the ballot in February. He asked Schumpert, Bigham and Adamson if they were ever present when such a vote was taken and each individually replied no vote was taken when they were present. Purcell said he would not support this issue tonight.

Williams said he was reading the agenda folder and did not see some of the language that was being discussed. He said this is a concept to work toward a common goal, a conceptual, intergovernmental agreement. Williams said whether or not it is a good idea or good timing, he did not know, but did not read into it that Council would be approving or condoning a sales tax issue that may be coming before the voters. He said he only saw a concept and plan of implementation to agree on a direction where two governmental entities could participate because they served the same citizens for the same needs.

Maples said she agreed with Beller and Purcell and would not support this. She said whether it is a concept or not, the perception is there that if Council supports this, that it is supporting the sales tax. Maples said the only way to do away with that perception is to not support this in its entirety at this point in time. She said the timing is awful, the planning is awful, and there are many unanswered questions. She said they do not know how the truth in sentencing house bill will go into effect and there will be more modifications on that; the youthful offender program goes into effect January 1 and more bed space will be needed and that will also be modified. Maples said there are many "what if" questions that need to be answered and adequate preparation has not been done on this.

Williams said the agreement does not say a certain building will be in a certain location or certain size or a certain cost.

Warren said he disagreed with Williams because the Commissioners voted to implement or take to the people a quarter cent sales tax for the creation of a proposed city/county jail; they have a figure in mind of how much it will cost; they have a location where they want to put it. He said so far in this whole process, he had not seen any mention of cooperation or working with the city, but the biggest problem is all of that was done before they even voted to come to the city to work out the agreement. Warren said the tax was decided to be voted on before it came to the city.

Maples said Lawton is facing the more pressing need of the federal mandate on the sewer rehab of \$62 million which must be funded and takes priority. She said if the perception is there that the Council would support the jail sales tax, then they should do away with that perception and not support the item.

Beller said it appeared everyone agreed that if it were a good concept, the council would support it and the jail is needed.

MOVED by Beller, SECOND by Sadler, to table action on this recommendation and ask the staff to come back to develop a plan of implementation and bring it back to the City Council in the next 30 to 60 days.

Substitute motion was offered by Shanklin and seconded by Maples to deny the item. Mayor Marley asked if a second had been offered to the motion to table. Sadler said he would second the motion to table. Mayor Marley said he could not accept the substitute motion since there was a second on the motion to table.

VOTE ON MOTION TO TABLE: AYE: Beller, Williams, Sadler. NAY: Purcell, Shanklin, Warren, Maples. MOTION FAILED.

MOVED by Shanklin, SECOND by Purcell, to deny the item. AYE: Shanklin, Beller, Warren, Maples, Purcell. NAY: Williams, Sadler. MOTION CARRIED.

3. Consider adopting a resolution establishing Enterprise Zone No. 4 in the City of Lawton. Exhibits: Resolution No. 97-159; Proposed Enterprise Zone Map.

Schumpert said the item was initiated by the Lawton Chamber of Commerce and Industry, which is aware of an industry wishing to locate here. Information was received by the Chamber from the Department of Commerce relating to enterprise zones and staff was requested to look into it, which Pondrom has done. There are three current enterprise zones and the areas under consideration can be incorporated into another enterprise zone because they meet the criteria. He recommended approval of the resolution.

Beller asked if there was a limit on the number of enterprise zones a city could have and Pondrom said no. Beller said a person is present tonight who is interested in extending this zone and that it was his understanding that another enterprise zone can be added at a later date. Pondrom said that was correct. Schumpert said the criteria are that it must be within the corporate limits of the city, and the majority of the households within the zone have an income of less than 80% of the states median income. Current state median income is \$23,578 and 80% of that is \$18,862.

Beller asked who would initiate the action to establish an enterprise zone to accommodate the possibility of industry in another area. Schumpert said if he could get the appropriate information, he would ask Pondrom to do the research and prepare an item. Purcell said he did not know if the area would qualify and asked if areas on the east side could be added which are not contiguous to Zone 4, or must they be contiguous. Schumpert said they would either have to stand alone or be contiguous to an existing enterprise zone and Pondrom agreed. Purcell asked if areas could be added to Enterprise Zones 1, 2 and 3. Pondrom said the existing zones can be reconfigured or rescinded, and new zones designated, which could include areas on the east side of town. Pondrom said it appeared the area from the Pioneer Expressway to SE 45th Street, with the exception of Sullivan Village, would meet the criteria of 80% of the states median income. Purcell asked when Council could see that returned. Pondrom said the first meeting in January.

Shanklin asked if Pondrom would return all property in Lawton that would qualify. Pondrom said his objective would be to try to make as large of an area in the city limits as possible to be designated as an enterprise zone. Shanklin asked if it could be a three or four square block area. Pondrom said it cannot be any smaller than a census tract block group. Sadler asked how big such an area would be. Pondrom said it varies; in the Lawton View area it could be as large as six regular city blocks, but a block group on the east side of town could cover four or five sections. Shanklin asked if this was a state or federal program. Pondrom said it is the state enterprise zone program.

MOVED by Beller, SECOND by Williams, to approve Resolution No. 97-159 and establish Enterprise Zone No. 4. AYE: Beller, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-159

A RESOLUTION ESTABLISHING AN ADDITIONAL ENTERPRISE ZONE WITHIN THE CITY LIMITS OF THE CITY OF LAWTON PURSUANT TO THE OKLAHOMA ENTERPRISE ZONE ACT AND DESCRIBING THE BOUNDARIES THEREOF.

4. Consider approving a sewer system design program for Phase 1 of the Sewer System Rehabilitation Program as required by the Oklahoma Department of Environmental Quality and authorizing funding. Exhibits: Rehabilitation and Expansion/Upgrade Schedule; System Rehabilitation and Expansion Annual Cost Summary Phase 1; Project 7 Year Budget Cost Estimate.

Ihler said the City entered into a consent order in September 1997 with the Oklahoma Department of Environmental Quality for rehabilitation of the sanitary sewer system. He said the schedule in the consent order was that design for phase one of the sewer rehab, which is the Squaw Creek Basin and additional expansion, by April 1998. Actual construction is to begin in late December 1998 or January 1999. Ihler said there are two alternatives to accomplishing the design; one being to establish a sewer system technical division made up of engineering related personnel using in-house personnel, or contract with consulting firms for design, inspection and administration of the private sewer service lines that need to be addressed as part of the program.

Ihler said a preliminary budget was prepared for the seven year program for a sewer system technical division and it was compared to the estimated cost prepared by the consultant for engineering, inspections and administering the private sewer service rehab. Preliminary estimates show the Citys division approach could save potentially \$430,000 over that seven year period, and the funding source would be the same as is proposed for the entire project, regardless of which alternative is selected. Staff recommendation is to take advantage of that potential savings and start trying to put together the technical group after the first of the year to be able to meet the schedules in the consent order.

Beller asked if the division would be abolished after the seven year program. Ihler said the consent order has an agreement for phase one, which is Squaw Creek, and the City must submit a schedule before the end of phase one for phase two, and there is also a phase three program; the entire program is a 20 year program.

Williams asked Ihler to help him understand and accept the fact that this can be done in-house for less cost than contracting it out since this would be adding five employees. Ihler said contracting for engineering services may be based on a percentage of construction cost, there are many different types of projects and the wages would be higher for the consultants. Williams asked if benefits and step increases were included in the City's division. Ihler said yes, projections include the normal 2.5% step increases and approximately 28% to 30% for benefits. Ihler said we want to put a fence around this group so they work only on these individual items and do not get pulled off them.

Shanklin said the City's costs show we will spend \$22 million but \$3.5 million will be for engineering and inspection, which is around 17%, and the fee curve should be about 9% or 10%. He said it shows \$3.5 million for engineering, inspection and contingency for a total estimated cost of \$22 million in construction, and that is higher than a consultant would charge. Ihler said 50%, or the \$1.7 million, is for engineering and inspection fees; the other 50% is for contingencies for the projects themselves. He said the engineering and inspection fees would be about 8% to 9%. Ihler said the amount shown for contingencies is for the project construction, not the engineering or inspection.

Shanklin asked how many linear feet would be done with the insituform type of work in this seven years. Ihler said he could provide the figure established in the report accepted in January. Shanklin said members who attended the NLC talked to that firm, which offered to provide a presentation for the citizens to see if there is a sizeable amount of work they can do. Ihler said they would be happy to have them come. Shanklin said they estimated \$30 to \$40 per foot. Ihler said Wichita Falls was getting \$40 to \$45 per foot with insituform, or cured in place line.

Purcell asked if the division is established with five people, would there be a \$430,000 savings over the seven years. Ihler said the five people would be hired and the difference in the savings is approximately \$80,000. Ihler said if it is contracted out, one City employee, probably an engineer, would be needed to serve as the compliance officer for this project to monitor the progress, contracts and status, and coordinate the different aspects with the consultant. Ihler said a full time person would be needed for that and the estimated cost for that individual, who would not be able to work on other city projects, is about \$50,000 per year, including benefits. Purcell said he understood that part and asked that the two be separated; he said the compliance officer would certainly be needed.

Purcell said the estimated savings of hiring five people instead of contracting this out would be about \$80,000. Ihler said that is the estimate. Purcell said the projections include the 2.5% step increases but not the cost of living or other types of raises, which would eat into the \$80,000 savings. Ihler said that is possible. Purcell said other numbers could also go up, such as materials, supplies and uniforms, and that \$80,000 could be eaten up very quickly. Purcell suggested it be contracted out and the compliance person be hired for \$50,000 per year.

Shanklin said given the contingency amount, he would prefer to do it in house where employees could be held accountable. He said he would rather than people in town making the money than someone in Kansas City or Dallas, and \$80,000 is not enough to be really worried about given the fact that the work and costs are so vast. Shanklin said either Ihler knows what he is saying or not, and if not, the RFP is needed.

Williams asked Ihler if he was comfortable with the contingency amount. He said in the past, those estimates have been relied on and half way into the project, they have increased greatly. Williams said he wanted to know worst case scenarios and that the people need to understand it also. Ihler said in discussion of the finance issue of funding the whole program, everyone was aware of the fact they were using January 1997 dollars, as do these contingencies. Ihler said the financial advisor was asked to include inflationary numbers, and those will be used with the program, and the contingency numbers are the best estimates available. Ihler said the project was estimated at \$62 million, or \$90 million with the inflationary numbers, but 20 years is too far out to be able to say if that is adequate; the program is established to take care of the sanitary sewer overflows but as we get into the cleaning and the program, we will be trying to use the money in the best manner and take care of additional work that we know will come up.

Beller asked if the figures for the division are locked in or can they be discussed at budget time. Ihler said these are preliminary projected budget figures and the division would submit its budget each year. Schumpert said the funding would be from the sales tax or a utility increase. Beller said the estimates show three pick up trucks for \$51,000 and replace them after four or five years, and he asked if Council could go over that again through the budget sessions. Beller asked if he voted yes on the program tonight, would he be telling staff to buy three new pick ups. Schumpert said that would be the intention. Williams said the funding is not yet available. Beller said he felt smaller pick ups should be purchased and that would likely be discussed during the budget sessions.

Purcell asked if Council approved the compliance officer and contracted out the engineering instead of having the technical division, would that impact on the mission to accomplish the rehabilitation. Ihler said whether it is contracted out or done in house, the goal of having a successful project would be the same. Ihler said an advantage of doing this in house and housing the employees at the Public Works yard with the Wastewater Collection and Maintenance group in the same building is the information that would pass back and forth between the maintenance and design groups. He said the coordination of effort would be greater because they would be communicating. Ihler said they planned to make sure there was a successful program carried out whichever way is selected.

Purcell said he was concerned about adding five people to the City's payroll who would be here for the next 20 years. He said there is the potential to save \$80,000 over the next seven years, although that is not a certainty. Ihler said that is correct, and there would also be better control of the overall program by having in house personnel. Schumpert said he would like to emphasize that point, because as hard as staff tries to write detailed specifications and contracts showing

what needs to be done, that is not always done well and the firms are in business to make a profit. Schumpert said there is the ability to create an entity which could be controlled and managed and make day to day changes in what they are doing, and at the same time, save approximately \$80,000. Schumpert said the ability to manage this and have day to day control of this group, and their ability to work closely with the other parts of the City government, would be worth it.

Warren said the City contracts for things and later finds parts were left out, but if this is done wrong, it will be solely up to us to fix it. He said it will not be a question of whether it was the fault of the staff or the consultant because it will be only the staff. Ihler said there will be many unknowns discovered in the field and contracts cannot possibly be written to address all of these unknown factors. He said by doing it in house, change orders will not be required for items not considered in the contract. Warren said at the same time this is being accomplished, the "touch every line" maintenance is being done and it will be much easier for one group to be able to coordinate all of that together so each knows what the other is doing and will not have to go over something numerous times. Ihler said that is a real benefit.

Williams said he felt there would be better control over the cost if it is done in house. He said the consultants would base their charge on percentages, and with inflation, those numbers would increase.

Shanklin said EPA and DEQ have granted a lenient time frame. He said there will obviously be problems and having to contact a consultant 200 miles away would be a problem. Shanklin said phase one is for seven years, and after that time, it can be changed if necessary. He said consideration should be given in the future to having our own crews do some of the work because that is possible.

MOVED by Shanklin, SECOND by Warren, to accept staffs recommendation as to the implementation of phase one of the sanitary sewer system rehab. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

5. Consider terminating contract with American Payment Systems, Inc. Exhibits: Contract.

Williams said he might have a conflict of interest in this item and would leave the room. Contract is for the City to process payments at Fort Sill for the Public Service Company.

Warren asked if PSO has been contacted as to changing the agreement. Steve Livingston, Finance Director, said he had notified PSO of the intention to terminate the contract but had not discussed increasing the price. Livingston said he could not justify requesting funding for a full time person, and to have a person part time who could be trained and be there enough hours to retain them would still be more than double what is being received now. Warren said it never hurts to ask because it would be as much to PSOs advantage as it would be for the City.

Mayor Marley said he did not get into the funding but did call Mr. Milner because he went to watch the operation at Fort Sill. He said they are asking our people to verify down payments and all kinds of things that were not envisioned when the contract was written, and it is a mad house particularly on the first and middle month pay days. Warren said he had no problem canceling it but also they could discuss whether or not something could be worked out for both.

Schumpert said the solution would be to hire another employee, but to do that to service another entity is not a good idea. He said complaints are being received on both sides and the satisfactory solution is to have a full time PSO employee at that location who knows what is going on with their company. Schumpert said he would prefer to stop doing this regardless of what was offered for payment.

MOVED by Purcell, SECOND by Beller, to terminate the contract with American Payment Systems, Inc., effective February 1, 1998, and authorize the Mayor to provide 30 day notice as required. AYE: Warren, Maples, Sadler, Purcell, Shanklin, Beller. NAY: None. OUT: Williams. MOTION CARRIED.

6. Consider adopting a resolution approving an indebtedness of the Airport Authority in the form of letter of credit in an amount not to exceed \$200,000. Exhibits: Memorandum; Resolution No. 97-160.

Cruz said this is the result of the discussion at the last meeting and was requested by the Authority. He recommended approval. Beller said the Authority has used this line of credit prior to tonight and the Airport Manager is present if there are questions. He said the Authority desires to continue with this because it will help with airport improvement projects.

MOVED by Beller, SECOND by Warren, to approve Resolution No. 97-160. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Warren. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-160

A RESOLUTION APPROVING AN INDEBTEDNESS OF THE LAWTON METROPOLITAN AREA AIRPORT AUTHORITY IN THE FORM OF A LETTER OF CREDIT.

7. Consider adopting a resolution setting the date for the 1998 municipal election, designating offices to be elected and questions to be placed on the ballot. Exhibits: Resolution No. 97-161.

Cruz said the resolution sets the election dates for next year, and the filing periods for the offices to be elected, and the questions to be decided by the voters.

MOVED by Purcell, SECOND by Williams, to approve Resolution No. 97-161.

Williams said he would like to officially let the citizens of Ward Two know that he does plan to run for re-election. Shanklin said he would vote yes on the resolution so the election could be held but that he was not voting to approve the sales tax, and that he would like that on the record.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Warren, Maples. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-161

A RESOLUTION OF THE COUNCIL OF THE CITY OF LAWTON, OKLAHOMA, CALLING FOR AND SETTING THE DATES FOR THE MUNICIPAL ELECTION TO BE HELD DURING THE YEAR 1998 AS PROVIDED IN THE CITY CHARTER; SPECIFYING THE OFFICERS TO BE ELECTED; PROVIDING FOR QUALIFICATIONS OF CANDIDATES; DESIGNATING WHICH ELECTIVE OFFICES SHALL BE FILED BY VOTING AT LARGE AND BY WARD; PROVIDING FOR NONPARTISAN ELECTION; PROVIDING FOR RESIDENCY REQUIREMENTS; PROVIDING FOR THE APPROVAL OR REJECTION OF AN AMENDMENT TO THE CHARTER OF THE CITY OF LAWTON, OKLAHOMA; PROVIDING FOR AN ELECTION ON THE APPROVAL OR REJECTION OF ORDINANCE 97-63, ASSESSING AND LEVYING AN EXCISE TAX OF ONE-QUARTER OF ONE PERCENT (0.25%) BEGINNING JUNE 1, 1998, AND ENDING ON DECEMBER 31, 1999, AND ONE AND ONE-QUARTER PERCENT (1.25%) BEGINNING JANUARY 1, 2000, AND ENDING ON DECEMBER 31, 2025; PROVIDING THAT PRECINCT 42 NOT BE OPENED; DIRECTING THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE SECRETARY OF THE COMANCHE COUNTY ELECTION BOARD AS REQUIRED BY STATE LAW; DIRECTING THAT A COPY OF THE AMENDMENT TO THE CITY CHARTER BE PUBLISHED IN FULL IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE CITY FOR TWENTY-ONE (21) DAYS; AND DIRECTING THAT THIS RESOLUTION BE PUBLISHED IN FULL IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE CITY.

CONSENT AGENDA:

ITEM 8 WAS REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY BELOW.

9. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for this claim which is over \$400.00: Robin J. Wyrick. Exhibits: Legal Opinion/Recommendation. (Resolution No. 97-162 on file in City Clerks Office)

(Title only) RESOLUTION NO. 97-162

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST ROBYN J. WYRICK IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00).

10. Consider denying the requests for the installation of traffic control devices at specified locations. Exhibits: 11/20/97 Traffic Commission Draft Minutes Excerpt. Action: Denial of requests.

11. Consider a resolution authorizing the installation of traffic control devices at specified locations. Exhibits: Resolution No. 97-163; 11/20/97 Traffic Commission Draft Minutes Excerpt.

(Title only) RESOLUTION NO. 97-163

A RESOLUTION AUTHORIZING THE INSTALLATION AND/OR REMOVAL OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON, OKLAHOMA. Installation locations: 1) "No Parking" along west side of NW 26th St. from Ozmun north to Rogers Lane; 2) "Stop" at intersection of NW 18th and Pollard for east/west bound approaches; 3) "Stop" at T-intersection of NW Cornell and University Drive for westbound approach; 4) "Stop" at intersection of NW Dearborn Ave. and Railroad Street making it a 4-way stop; 5) "Yield" at intersection of SW 10th St. and McKinley Ave. for north/south bound approaches.

12. Consider authorizing the Mayor and City Clerk to execute an agreement between the City of Lawton and Hospice of Lawton Area, Inc., in the amount of \$48,100 for providing hospice health care services for low and moderate income persons as described in the Consolidated One-Year Action Plan FY 1997. Exhibits: None. (Agreement on file in City Clerks Office) Action: Approval of agreement.

13. Consider approval of Change Order No. 1 for the Council Heights Addition Waterline Project 97-21 with Kent Waller Construction. Exhibits: Location Map. Action: Approval of Change Order No. 1. Change Order adds 150 LF of 10" water line, including valves, in lieu of 8" water line and valves, as well as two tapping sleeves for the 12" line. It also deletes the railroad bore. Changes are necessary to provide fire flow to this area. Estimated savings is \$2,911.15; no additional contract days required.

14. Consider approving the record plat for Wyatt Acres Addition, Part 11, and accepting the improvements, an escrow agreement for erosion control, an easement, and two maintenance bonds. Exhibits: Plat Map; Draft LMAPC Minutes. (Escrow Agreement, Easements and Maintenance Bonds on file in City Clerks Office)

Background: Wyatt Acres Addition, Part 11, is located at the southwest corner of NW Cache Road and NW 82nd Street.

This plat consists of 53 single-family residential lots on 16.428 acres. The developer is Wyatt Acres Realty, and the consulting engineer is Landmark Engineering. The Engineering Division has reviewed the record plat, record drawings, and inspected all completed improvements. LMAPC conditionally approved the record plat on November 19, 1997. At this time all of the conditions have been met.

The development has submitted an escrow agreement in the amount of \$12,375.00 for erosion control within the platted area and for the area around the detention structure. Two maintenance bonds have been submitted to guarantee the material and workmanship of the improvements for a two-year time period; one from Cross Construction in the amount of \$14,955.00 for the water and sewer improvements and one from T & G Construction, Inc., in the amount of \$40,335.00 for street paving and drainage.

Recommended Council Action: Approve the record plat for Wyatt Acres Addition, Part 11, and accept the improvements, escrow agreement, easement, and maintenance bonds.

15. Consider awarding contract for Network Server. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Dell Computer Corporation.

16. Mayors Appointments. Exhibits: None.

PARKS & RECREATION COMMISSION:

Bobbie Smith, Ward 4 Rep., Term Exp. 12/9/99

Cindy Gatliff, Ward 8 Rep., Term Exp. 10/26/99

BUILDING DEVELOPMENT APPEAL BOARD:

G.W. Hastings, General Commercial Contractor Rep., Term Exp. 12/9/99

CITIZENS ADVISORY COMMITTEE:

John Cullison, Ward 3 Rep., Term Exp. 5/9/98

LAWTON ECONOMIC DEVELOPMENT AUTHORITY:

David Means; Guy Rogers; Leonce Thierry (all terms expire 12/15/2004)

LAWTON METROPOLITAN AREA AIRPORT AUTHORITY:

Wayne (Duty) Rowe, Chamber of Commerce Rep., Term Exp. 12/31/98

LAWTON HOUSING AUTHORITY:

Alvis Kennedy, Term Exp. 12/20/2000

17. Consider approval of payroll for the period of December 1 through 14, 1997. Exhibits: None.

Mayor Marley said a person was present to speak regarding Item 8.

MOVED by Shanklin, SECOND by Sadler, for approval of the Consent Agenda items as recommended with the exception of Item 8. AYE: Sadler, Purcell, Shanklin, Beller, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

8. Consider the following damage claims recommended for denial: Claude Vaughn and Seno Speed. Exhibits: Legal Opinions/Recommendations.

Mr. Speed, 1227 SW 25th Place, said he was present regarding his computer. He said he was served with a search warrant, which he was not sure yet if it was a valid search warrant and that his attorney was working on that now. He said in the process, the officers, while he was in the other room, turned his computer on and started typing and not knowing what they were typing, when he was released from jail, he got on his computer and everything had been destroyed. Mr. Speed said he did not know what his rights are or how to go about getting it fixed or why the claim was recommended for denial. He said the information he received in the mail, many of the things did not even concern the computer. Mr. Speed said the amount he submitted was rather high but that he had the receipt with him which is \$1,800 for the computer and \$4,000 was for the files and things he had in the computer.

Shanklin asked if Mr. Speed had been advised that he could take this to district court. Mr. Speed said he would like to ask questions. Beller asked the Mayor if it was appropriate for questions to be answered. Mayor Marley said not in this case, and that can be done through the attorneys office at a later time.

Cruz said the recommendation for denial is based on the exemption from damages for the execution of a search warrant. He said if Mr. Speed does not agree with the Councils decision, should they deny the claim, the next course would be to file suit in district court. Mr. Speed said he would rather not take it to district court but would rather settle it here today. MOVED by Beller, SECOND by Warren, to deny both of the claims listed in Item 8. AYE: Purcell, Shanklin, Beller, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

18. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending litigation styled Vivian G. Jackson vs. The City of Lawton, Oklahoma, Case No. CIV-97-1574R, in the United States

District Court for the Western District of Oklahoma, and in open session consider approving a professional services agreement between the City of Lawton and Phil Carlin. Exhibits: None.

19. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to consider a settlement offer received in the pending grievance arbitration of Larry Mahamed, FMCS #97-06761-7, and take appropriate action in open session. Exhibits: None.

20. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled Joan Bias v. City of Lawton, Case No. CIV-97-1765L, in the United States District Court for the Western District of Oklahoma, and take appropriate action in open session. Exhibits: None.

21. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to consider the appraisal and purchase of the real property located at 631 SW D Avenue, Lawton, Oklahoma, and take appropriate action in open session. Exhibits: None.

22. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement in the pending workers compensation case of Johnny Phillips, Case No. 96-5877Q, and take appropriate action in open session. Exhibits: None.

MOVED by Warren, SECOND by Shanklin, to convene in executive session as shown on the agenda. AYE: Shanklin, Beller, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 7:30 p.m. and reconvened in regular, open session at approximately 7:50 p.m. with roll call reflecting all members present except Green.

Cruz reported the Mayor and Council met in executive session to discuss the items listed on the agenda. He said on Item 18, the Vivian Jackson lawsuit, no action is needed in open session; the district court dismissed the case today. He said on Item 19, no action is needed and that he had been given instruction on the matter. Cruz said on Item 20, no action is needed.

Cruz said on Item 21 related to the property at 631 D Avenue, he requested Council consider a motion authorizing the City Manager to proceed with the purchase of the property.

MOVED by Williams, SECOND by Beller, to authorize the City Manager to proceed with the purchase of the property at 631 D Avenue. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

Cruz said no action is needed on Item 22 and that would conclude his report.

REPORTS: MAYOR/CITY MANAGER/CITY COUNCIL.

Schumpert said there is a Council meeting next Tuesday, as well as the City Hall employee luncheon.

Warren asked that a report be provided as to how many prairie dogs are left and how much longer it would take for the relocation. Mayor Marley said the last he had heard, 659 had been relocated.

Maples said she would be absent next Tuesday because she would be in Norman in training. She announced her intention to not run for re-election and said her attention would be directed toward her family. Maples said she would also announce her full support for G. Wayne Smith in the upcoming election. Williams thanked Maples for her hard work and effort.

Purcell said eight announcements are printed on the back of the utility bill and he thanked staff for those efforts.

Shanklin said the Library open house is on December 18 from 4 to 6 p.m.

Shanklin said he asked at the last meeting if there was a problem with the lagoon at School House Slough and Lakeland Addition and was told that there was none. He said there is a letter in that regard and asked if the City would do what the contract requires. Schumpert said yes. Shanklin asked if it would be taken care of even though it was nine years late and have that settled before entering into a contract with Mr. Waller. Schumpert said the contract with Mr. Waller is in effect now, but staff was addressing the lagoon situation and taking appropriate action to his knowledge. Shanklin said staff knew about it but denied knowing it and asked why that was done instead of saying there was a problem. Cruz said the figures were received from Ihler concerning the possible amount of discharge in 1988 and that Larry Johnson is working with the President of the Association and will be meeting, so he did not see any problem.

Shanklin said he heard a rumor yesterday that the only reason he had an interest in the lakes was that one of his sons may or may not have been ticketed by an individual. He said if that is true, he did not know it and that it would have nothing to do with his interest in the lakes. Shanklin said the rumor is totally not true and it is a rumor and an out and out lie.

Sadler said Council recently considered the seat belt issue and he was told that his truck did not apply, but a newspaper article stated it applies to pick up trucks, and vehicles which weigh over a ton, but a letter was sent saying that if it is a

ton, then cars would apply. He said he did not feel the members knew what they were voting on at the time and requested clarification be provided on what was passed and on whether or not cars or trucks would be cited. Warren said school busses carrying 30 children do not have to have seat belts. Cruz said he had researched the issue and prepared a memorandum for the Police Chief; and copies would be forwarded to Council. Cruz said the seat belt law does not apply to pick ups and the law does not mention tonnage; it says it applies to vehicles and quotes a definition of vehicles and trucks and the definition of a truck is a vehicle designed primarily and customarily used for transportation of goods or materials, so there is no distinction between tonnage. Shanklin asked if pick ups are exempt and Cruz said that is correct.

Beller asked if a report would be made on the trip to Philadelphia. Mayor Marley said members get out of the sessions what they are willing to put in, and that the members each attended different sessions. He said there was a session on the Year 2000 problem, and staff is working on this, but there are things to keep in mind and he was preparing a letter to the City Manager requesting answers to certain questions such as a contingency plan on what happens if the work is not completed in time. Mayor Marley said he attended a session regarding disadvantaged youth, and the problems are similar across the country.

Mayor Marley said yesterday he received a letter from the Chief of the Census Bureau in Kansas City who wants to meet with us on how the census will be done. Mayor Marley said work is being done to see if the population at Fort Sill can be included, and even though they say this will be a snap shot census, or wherever you are on April 1 you will be counted there; however, if you want to say you are from a certain other place, although you are in Lawton, you will be counted at the other place. He said it will still have some confusion because people will have that option. Mayor Marley said Jack Lindstrom ran the past census efforts and someone else will have to be appointed, and the federal government has the responsibility to do the census but they need a lot of support from the local community and plan on hiring 300,000 people across the nation to help. He said this was discussed at NLC and it was a good exchange. Mayor Marley said Vista, Arizona, has incorporated the entire adjacent fort into their population counts and there were conversations with them. He said the conversations with others with similar problems are beneficial.

Williams said the exhibits at NLC had a lot of information and much of it was brought back to be distributed to staff. He said he attended a session on downtown vitalization, and engaging citizen input and involvement, which is needed in Lawton. Williams said he attended a session on hiring professionals for public service and criteria were discussed in a workshop; community policing is still a popular topic. He said the free flow of exchange of comments away from the normal atmosphere lets ideas appear.

Shanklin said there are industries and thousands and thousands of cars in Philadelphia, and the people live on top of one another. He said he began considering that the codes in Lawton are the same ones used in Philadelphia and there is no way it should be the same.

Mayor Marley said he was asked some time ago, and tomorrow the letters on the community development committee would be going out, and they would go to about 20 different entities, hoping to meet after the first of the year. He said each letter showed the list of those who received one and they were asked to respond if they can think of others. Mayor Marley said this is in relation somewhat to the city/county jail matter because that is one of the community development items that should be prioritized as to where it will fit into the scheme of projects, in his opinion.

Mayor Marley said he had talked with Mr. Bensons office and asked if he would consider promoting a Native American Day in Oklahoma on the third Monday in November each year. He said he had sent letters to other legislators asking for support but Mr. Bensons office said they would work on having that passed. Mayor Marley said he felt it was time to acknowledge what Native Americans had done for the country, particularly in Oklahoma.

There was no further business to consider and the meeting adjourned at 8:00 p.m.